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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/722,499	11/28/2000	Frank Van Heeswyk	213222.00018	5572
27160	7590	09/19/2005		
KATTEN MUCHIN ROSENMAN LLP 525 WEST MONROE STREET CHICAGO, IL 60661-3693				
			EXAMINER CORRIELUS, JEAN B	
			ART UNIT 2637	PAPER NUMBER

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/722,499

Applicant(s)

HEESWYK ET AL.

Examiner

Jean B. Corielus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 15-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/4/05 has been entered.

### ***Claim Rejections - 35 USC § 102***

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15, 16, 20 and 22 rejected under 35 U.S.C. 102(b) as being anticipated by Kasugai US Patent No. 5,390,366.

As per claim 15, Kasugai teaches a wireless communication system **fig. 1** for communication between a base station **20** and a plurality of subscriber stations **40** comprising a channel structure for the plurality of subscriber stations **40** to communicate with the base station **20**, the channel structure including: a plurality of bi-directional

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dedicated channels see **fig. 6 and col. 2, lines 36 and 41**, and a bi-directional user control channel see **fig. 6 and col. 2, line 35-36 and 40-41**, wherein a subscriber station, when activated within the communication system (i. e., when in communication) , is allocated a portion of the user control channel see **fig. 6** , but when a dedicated channel is established between the subscriber station and the base station, then the portion of the user control channel allocated to the subscriber station is de-allocated from the subscriber station until the dedicated channel is de-allocated from the subscriber station, note **col. 4, lines 43-45**, where communication is switches from control channel to the traffic channel.

As per claim 16, Kasugai further teaches wherein each user control channel transmits data in frames divided into time slots see **fig. 4** and the portion of the user control channel allocated to a subscriber station includes a time slot in the frames transmitted over the user control channel see **fig. 4 and col. 4, lines 55-61**.

As per claim 20 power control information is inherently transmitted via the user control channel so as minimized interference between users.

As per claim 22 the channel structure further includes a transmit channel (broadcast packet data channel) and wherein acknowledgements 113 for receipt of a frame (packet) from the transmit channel (broadcast packet data channel) are transmitted from a receiving subscriber station 40 to the base station 20 via the user control channel. See **fig. 6 and col. 4, lines 42-46**.

***Claim Rejections - 35 USC § 103***

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasugai.

As per claim 17, as applied to claim 15 above, Kasugai teaches every feature of the claimed invention but does not explicitly teach that the time slot is shared between a first and a second subscriber stations. However, such limitation does not include any inventive step. It would have been obvious to one skill in the art to modify Kasugai in such a way as to share the time slot between a first and a second station so as to make use efficiently of the communication resources.

As per claim 18, the subscriber stations sharing use of a shared time slot alternately employ inherently the shared time slot in successive frames, as time slot can only be shared if used of the slot is alternated.

As per claim 19, a shared time slot can be designated any other way as long such designation is in line with accepted terminology.

As per claim 21, it would have been obvious to one skill in the art to transmit firmware upgrades via the user control channel for better convenience.


***Response to Arguments***

6. Applicant's arguments with respect to claims 15-22 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is 571-272-3020. The examiner can normally be reached on Maxi-Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jean B Corrielus  
Primary Examiner  
Art Unit 2637

9-16-05